RESPONSE UNDER 37 CFR 1.116
EXPEDITED PROCEDURE
Art Unit 2133

In the Claims

Applicant requests amendment of all prior versions, and listings of claims in the application with the following list of claims:

1. To 15 (Cancelled)

16. (New) A method for separately determining the performance of the upstream and downstream paths of a cable network, the method comprising:

Transmitting from a tester, Internet Protocol (IP) test packets through a cable network, to a Cable Modem Termination System, wherein the IP test packets contain instructions to return the IP test packets back to the tester,

Returning the IP test packets back to the tester from the Cable Modem Termination System, wherein some of the returned IP test packets received at the tester with no errors, and some of the returned IP test packets received at the tester with errors, as a result of the downstream path,

Bypassing error checking in the tester for the returned IP test packets received at the tester with errors,

Checking the IP test packets with errors in the tester to identify the IP test packets with errors as IP test packets,

Determining if any of the IP test packets were lost in the upstream or downstream paths, wherein the determining of the downstream path is based on the IP test packets received with errors, and the determining of the upstream path is based on the IP test packets not received,

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Determining over a measurement time period, performance test results of

the upstream or downstream paths, based on the number of the IP test packets

transmitted from the tester through the cable network to the Cable Modem

Termination System compared to the number of IP test packets received at the

tester with errors and furthermore, based on the number of the IP test packets

transmitted from the tester through the cable network to the Cable Modem

Termination System compared to the number of IP test packets received at the

tester without errors.

17. (New) The method in claim 16, wherein the performance test results are

Block Error Rate.

18. (New) The method in claim 16, wherein the performance test results are Lost

Packets.

19. (New) The method in claim 16, wherein the step of transmitting from the

tester, transmits the IP test packets in the upstream channel of the cable

network.

20. (New) The method in claim 16, wherein the step of transmitting from the cable

modem termination system, transmits the IP test packets in the downstream

channel of the cable network,

21. (New) The method in claim 16, wherein the process to check for errors is

Cyclic Redundancy Check (CRC).

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22. (New) The method of claim 16, wherein the method repeats the process continuously during the measurement time period.

23. (New) The method in claim 16, wherein the IP test packets contain a test pattern.

24. (New) The method in claim 23, wherein the IP test packets are determined to be IP test packets by identifying a portion of the test pattern.

25. (New) The method in claim 23, wherein errors in parts of the IP test packets are ignored if portions of the test packets contain a portion of the test pattern.

26. (New) The method in claim 16, wherein the IP test packets are counted in the tester to determine if the test packets are the size of the test packets transmitted from the tester.

27. (New) The method in claim 16, wherein the IP test packets contain an address of a destination other than the Cable Modem Termination System.

28. (New) The method in claim 27, wherein the step of transmitting the IP test packets from the Cable Modem Termination System, the IP test packets are transmitted to the tester via the destination.

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